

1 **IN THE UNITED STATES DISTRICT COURT**
2 **FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

3 LAW OFFICES OF BRUCE J. CHASAN,
4 LLC, a Pennsylvania limited liability company;
5 and BRUCE J. CHASAN, individually;

CIVIL ACTION

No. 2:20-cv-1338-AB

6 Plaintiff,

7 v.

8 PIERCE BAINBRIDGE BECK PRICE &
9 HECHT, LLP, a California limited liability
10 partnership; JOHN M. PIERCE, individually;
11 JAMES BAINBRIDGE, individually;
12 CAROLYNN BECK, individually; MAXIM
13 PRICE, individually; DAVID L. HECHT,
14 individually; and PRAVATI CAPITAL, LLC, a
15 Delaware limited liability company;

16 Defendants.

17 **PRAVATI CAPITAL, LLC’S RESPONSE IN OPPOSITION TO PLAINTIFFS’**
18 **MOTION FOR LEAVE TO FILE A SURREPLY MEMORANDUM OF LAW**
19 **IN OPPOSITION TO THE PRAVATI CAPITAL LLC MOTION**
20 **TO DISMISS THE AMENDED COMPLAINT**

21 Defendant, Pravati Capital, LLC (“Pravati”), submits the following Memorandum of Law
22 in opposition to Plaintiffs Law Offices of Bruce J. Chasan, LLC, and Bruce J. Chasan’s *Motion*
23 *for Leave to File a Surreply Memorandum of Law in Opposition to the Pravati Capital LLC*
24 *Motion to Dismiss the Amended Complaint* (the “Motion”).

25 As a threshold matter, Plaintiffs’ Motion is untimely and should be disregarded. It was
26 filed on July 27, 2020 – 18 days after the date on which Pravati filed its Reply brief: July 9, 2020
27 (ECF No. 40). This Court’s Policies and Procedures dictate that the deadline for a surreply brief
28 is 10 days following the filing of the opposing party’s brief, meaning Plaintiffs’ Motion for Leave
 was due on July 20, 2020. Plaintiffs are thus in violation of the Court’s Policies and Procedures.
 This violation is part of an ongoing pattern of flagrant disregard of the rules and law by Plaintiffs.

1 (See, e.g., Pravati’s Motion for Sanctions, ECF No. 44 (addressing Plaintiffs’ violation of Fed. R.
2 Civ. P. 11)).

3 Nor is there good cause for Plaintiffs to file a surreply, which this Court discourages and
4 requires specific leave to file. (Policies & Procedures, General Motions Practice, § 4). Pravati first
5 raised *res judicata* in its Motion to Dismiss Plaintiffs’ Amended Complaint (“Motion to Dismiss”)
6 (ECF No. 25, pg. 2) – not in its Reply. It was in Pravati’s Motion to Dismiss that Pravati expressly
7 referenced and adopted Co-Defendant Pierce Bainbridge Beck Price & Hecht, LLP’s (“PBBPH”)
8 “argument on the grounds of res judicate as set forth in [PBBPH’s] memorandum of law” filed in
9 support of their own motion under Fed. R. Civ. P. 12(b)(6). This point, over which Plaintiffs
10 simply gloss, is dispositive to the issue of whether Pravati could further address *res judicata* in
11 its Reply brief: Pravati opened the door for *res judicata* in its Motion to Dismiss and therefore
12 could certainly further address *res judicata* in its Reply.

13 Joinder by reference is not improper. It is expressly authorized by Fed. R. Civ. P. 10(c),
14 which provides that “[a] statement in a pleading may be adopted by reference elsewhere in the
15 same pleading or in any other pleading or motion.” (Emphasis supplied.) *Accord Macklin v. Butler*,
16 553 F.2d 525, 528 (7th Cir. 1977) (motion to dismiss constitutes a “pleading” within the meaning
17 of Fed. R. Civ. P. 10(c)). Plaintiffs themselves joined other arguments by reference in their
18 Response, asserting “all the reasons put forth in Chasan Parties’ Response to the PBBPH Law
19 Motion to Dismiss the Amended Complaint.” (*Id.*). That is, Plaintiffs incorporated a different
20 response brief that itself amounts to a jaw-dropping 56 pages, without leave to exceed the Court’s
21 35-page limit in a frivolous case already described *ad nauseum* in Plaintiffs’ 313-paragraph, 85-
22 page Amended Complaint – itself a refiling of a prior failed case. Plaintiffs do not need more
23 pages. Plaintiffs need to be admonished and sanctioned. (See, e.g., Pravati’s Motion for Sanctions,
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1 ECF No. 44 (addressing Plaintiffs' violation of Fed. R. Civ. P. 11)).

2 Even aside from the dispositive fact that Pravati incorporated previous *res judicata*
3 briefing in its Motion to Dismiss, Pravati was merely addressing arguments raised by Plaintiffs
4 in their Response. Plaintiffs included an entire section in their Response dedicated to *res judicata*.
5 (ECF No. 34, § II). In that section, Plaintiffs raise several substantive arguments as to why *res*
6 *judicata* allegedly does not apply. Despite Plaintiffs' argument in their Motion for Leave that
7 "Pravati developed its *res judicata* contentions" in its Reply, it is not at all uncommon or improper
8 for a litigant to further develop an argument in a Reply brief when an opponent addresses it in
9 their Response. Pravati's Reply was well within the scope of Plaintiffs' Response.
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12 Nor does Plaintiffs' [Proposed] Surreply, which has essentially already been filed without
13 leave, present new issues that had not heretofore been briefed or that would bring Plaintiffs' case
14 out from under the ambit of Rule 11. For example, in both Paragraphs 3 and 4 of their Motion for
15 Leave, Plaintiffs assert that Pravati "continue[s]" to make certain arguments, suggesting that those
16 arguments have been raised and briefed elsewhere. Plaintiffs then implicitly concede that they
17 have already had an opportunity to respond to the "continue[d]" arguments in Pravati's Reply,
18 stating as to both Paragraphs 3 and 4: "Plaintiffs wish to comment further of [sic] those
19 contentions." (Emphasis supplied.) Plaintiffs have briefed these issues many, many times in this
20 case.
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22 When Plaintiffs filed this case, they intended it to harass Pravati. They intended to target
23 a party they likely see as "deep pockets" in an attempt to salvage what turned out to be a colossal
24 waste of his billable time. It is high tide for Plaintiffs to account for their conduct, which is,
25 frankly, unbecoming of the legal profession. Because Pravati refused to be extorted and opted
26 instead to defend itself in this case, Pravati incurred thousands of dollars in fees and costs and
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suffered from unwanted media attention. Plaintiffs must be held to pay for wasting judicial resources and attempting to extract a settlement from Pravati by filing a frivolous case. At a minimum, the Court should put an end to the continued suffering and damage by denying Respondents any further page allotment to brief issues that have already been briefed *ad nauseum*. The Court should deny Plaintiffs' Motion for Leave.

**COHEN SEGLIAS PALLAS
GREENHALL & FURMAN, PC**

Date: August 10, 2020

By: 

Edward D. Altabet, Esq. (318281)
Carl L. Engel, Esq. (316062)
30 South 17th Street, Floor 19
Philadelphia, PA 19130
Tel.: (215) 564-1700
ealtabet@cohenseglias.com
cengel@cohenseglias.com
Attorneys for Pravati Capital, LLC

1 ELECTRONICALLY filed this 10th day
2 of August, 2020 with:

3 ECF COPY sent via mail and email
4 this 10th day of August, 2020 to:

5 Eitan D. Blanc
6 2005 Market Street, 16th Floor
7 Philadelphia, PA 19103
8 edblanc@zarwin.com

9 Law Offices of Bruce J. Chasan, LLC
10 Attn: Bruce J. Chasan, Esq.
11 1500 JFK Boulevard, Suite 312
12 Philadelphia, PA 19102
13 bjchasan@brucechasanlaw.com

14 Haines & Associates, P.C.
15 Attn: Clifford E. Haines, Esq.
16 The Widener Building – 5th Floor
17 1339 Chestnut Street
18 Philadelphia, PA 19107-3520
19 chaines@haines-law.com

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23
24
25
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27
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By:



Carl L. Engel